

REMARKS

Applicants submit these remarks in response to the Office Action of March 11, 2003. In the Office Action, the Examiner rejected claims 1-5, 35-36, and 38-40 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 4,179,866 to Graham et al. (“Graham”). The Examiner also rejected claims 6-9 under 35 U.S.C. § 103(a) as being obvious over Graham in view of U.S. Patent 4,550,549 to Reinfeld et al. (“Reinfeld”).

In this amendment, Applicants offer arguments distinguishing the claims from the cited references, thereby overcoming the claim rejections. Applicants amend independent claim 1 to remove the word “its,” which was a typographical error and was unnecessary and confusing. This amendment of claim 1 is not made for purposes of distinguishing claim 1 over the cited art.

In this amendment, Applicants add new claims 41-50, which are supported by the specification and figures as filed. Applicants respectfully submit that claims 1-9, 35-36, 38-40, and 41-50 are patentable over the prior art of record. Accordingly, Applicants request a notice of allowance.

35 U.S.C. § 102(b) Rejections of Claims 1-5, 35-36, and 38-40

The Examiner rejected claims 1-5, 35-36, and 38-40 under 35 U.S.C. §102(b) as being anticipated by Graham. A claim is anticipated only if each and every element as set forth in the claim is found in a single prior art reference. MPEP § 2131.

Independent claim 1 recites that the “support mechanism directly contacts . . . the at least one good after the elevator lifts the at least one good to the second position.” Similarly, independent claim 35 recites “supporting the at least one good via direct contact between a support member and the at least one good.”

Graham does **not** disclose, teach or suggest **direct contact** between the support mechanism/member and the load being raised by the elevator lift apparatus. In fact, it teaches the opposite. For example, Graham discloses an elevator lift apparatus with plates 28 that serve as a platform for the stack of paper 24 being lifted up into the case 11. Once Graham's elevator lift apparatus has raised the stack of paper 24 up into the case 11,

[t]he upward movement of the elements 43, 44 causes the inwardly facing noses 47 to push the flaps 17, 18 inward across the bottom of the case and against the lower surfaces of plates 28. The plates 28 are therefore sandwiched between the load 24 and the flaps 17, 18 which in turn are elevationally supported by the upper surfaces 46 of the coplanar elements 43, 44.

Plates 28 are stripped from under load 24 by operation of the cylinder assemblies 36 (FIG. 11) which spread them apart from one another to clear the flaps 17, 18. The spread plates 28 can then be lowered by the elevator cylinder 30 to their initial positions shown in FIG. 8.

Graham, col. 5, ll. 24-36. Thus, unlike Applicants' invention claimed in independent claims 1 and 35, it is clear that Graham's support mechanisms 43, 44 do not make direct contact with the load 24 being lifted by the elevator apparatus because the flaps 17, 18 separate the support mechanisms 43, 44 from the load 24. For at least this reason, Graham fails to anticipate each and every element as set forth in independent claims 1 and 35. Since claim 36 depends on independent claim 35, and claims 2-9 and 38-40 depend on independent claim 1, Graham also fails to anticipate these claims as well. Therefore, Applicants respectfully request that the anticipation rejection be reconsidered and withdrawn.

35 U.S.C. § 103(a) Rejections of Claims 6-9

The Examiner rejected claims 6-9 under 35 U.S.C. § 103(a) as being obvious over Graham in view of Reinfeld. In order for a combination of references to establish a case of prima facie obviousness, three requirements must be met:

1. there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings;
2. there must be a reasonable expectation of success; and
3. the prior art references when combined must teach or suggest all the claim limitations.

MPEP §2142.

As explained in the preceding section, Graham does not disclose, teach, or suggest the invention claimed in independent claim 1, which is the claim on which claims 6-9 depend. Reinfeld does not remedy the deficiencies of Graham. Therefore, the Graham/Reinfeld combination fails to teach or suggest all of the limitations recited in claims 6-9. As a result, Applicants respectfully request that the obviousness rejection be reconsidered and withdrawn.

New Claims 41-50

New claims 41-46 are directed to an apparatus for packaging goods in a box. The apparatus comprises a box erecting apparatus and an elevator apparatus. The box erecting apparatus includes a first device and a second device that can be displaced to a second position. The elevator apparatus is adapted to transport the goods between the first device and the second device in the second position.

New claims 47-50 are directed to a method for packaging goods in a box. The method comprises presenting to a first device a first wall of a box, contacting the first wall with the first device, moving the first device to a displaced position to move the first wall away from the second wall, and using an elevator apparatus to transport the goods with between the second device and the first device when the first device is in the displaced position.

New claims 41-50 are supported by the figures and specification as filed, especially Figures 1, 2, 3A, 3B, 3D, and 6 and specification pages 8-10, 11-12, 14-16, and 18-23. No art of record teaches or suggests an apparatus or method as claimed in new claims 41-50. Therefore, allowance of new claims 41-50 is respectfully requested.

CONCLUSION

A petition for a one month extension of time to respond to the Office Action (from June 11, 2003 to July 11, 2003) is submitted herewith, along with a check in the amount of \$110 to cover the fee associated with the petition. Also, the Office is hereby authorized to charge any additional fee, or credit any overpayment, to Deposit Account 04-1420.

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In view of the preceding remarks, Applicant respectfully urges that the Examiner's rejections be reconsidered and withdrawn, and that the pending claims be allowed. However, if the Examiner believes that any issues remain unresolved, the Examiner is invited to telephone the undersigned to expedite allowance.

Respectfully submitted,

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